

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

DAVID C. STINE,

Plaintiff,

Case No. 07-12301

v.

HONORABLE DENISE PAGE HOOD

COMMISSIONER OF  
SOCIAL SECURITY,

Defendant.

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**ORDER ACCEPTING REPORT AND RECOMMENDATION**

**I. Background**

This matter is before the Court on Magistrate Judge Virginia Morgan's Report and Recommendation dated February 27, 2008 [**Docket No. 13**], recommending that the Commissioner's Motion for Summary Judgment [**Docket No. 12**] be DENIED, and Plaintiff's Motion for Summary Judgment [**Docket No. 11**] be GRANTED and that the case be remanded so that the ALJ may perform the necessary inquiry under SSR 00-4p to resolve whether there are jobs in the national economy which plaintiff can perform. No objections to the Report and Recommendation have been filed

**II. Standard of Review**

The standard of review to be employed by the Court when examining a Report and Recommendation is set forth in 28 U.S.C. § 636. This Court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(C). This Court "may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate." *Id.*

### III. Analysis

In adopting federal court review of Social Security administrative decisions, Congress limited the scope of review to a determination of whether the Commissioner's decision is supported by substantial evidence. *See* 42 U.S.C. § 405(g); *Sherrill v. Sec'y of Health and Human Servs.*, 757 F.2d 803, 804 (6<sup>th</sup> Cir. 1985). Substantial evidence has been defined as "more than a mere scintilla;" it is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Richardson v. Perales*, 402 U.S. 389, 401 (1971) (quoting *Consolidated Edison Co. V. NLRB*, 305 U.S. 197, 229 (1938)). The Commissioner's findings are not subject to reversal merely because substantial evidence exists in the record to support a different conclusion. *Mullen v. Brown*, 800 F.2d 535, 545 (6<sup>th</sup> Cir. 1986) (*citing Baker v. Heckler*, 730 F.2d 1147, 1150 (8<sup>th</sup> Cir. 1984)).

### IV. Conclusion

The Court adopts the Magistrate Judge's Report and Recommendation.

Accordingly,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge Virginia Morgan [**Docket No. 13, filed on February 27, 2008**] is ACCEPTED and ADOPTED as this Court's findings and conclusions of law.

IT IS ORDERED that Plaintiff's Motion for Summary Judgment [**Docket No. 11, filed on October 9, 2007**] is GRANTED.

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment [**Docket No. 12, filed on November 8, 2007**] is DENIED.

IT IS FURTHER ORDERED that the case is REMANDED so that the ALJ may perform the necessary inquiry under the SSR 00-4p to resolve whether there are jobs in the national economy

which plaintiff can perform.

S/Denise Page Hood  
Denise Page Hood  
United States District Judge

Dated: April 23, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record on April 23, 2008, by electronic and/or ordinary mail.

S/William F. Lewis  
Case Manager